IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1451 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SMT. VEENABEN A. BHATT WIFE OF LATE A.B.BHATT - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR MS TRIVEDI for Petitioner(s) : 1,1.2.1 MR RAJENDRA M DESAI for Petitioner(s) : 1,
None for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/11/2005

ORAL JUDGMENT

1. In this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order

passed by the Deputy Collector, Amreli dated 16.1.1993 as well as the judgment and order passed by the learned District Court, Amreli dated 12.8.1993 passed in Regular Civil Appeal No.32 of 1984. By way of interim relief, the petitioner has prayed for staying operation, implementation and execution of the order dated 21.10.2003 passed in Civil Suit No.68 of 2002.

2. Few facts are necessary for considering the present Special Civil Application.

The petitioner was serving in the Sales Tax Department and was allotted one Government Quarter at Amreli. Proceedings were initiated against him for vacating the said quarter in question under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1972 (hereinafter referred to as the “the Act” for short) and the order came to be passed against the petitioner on 16.1.1993. Being aggrieved and dissatisfied with the same, the petitioner preferred an appeal before the District Court, Amreli which also came to be

dismissed vide judgment and order dated 12.8.1993. It appears that the order passed by the learned Asst. District Judge dated 12.8.1993 came to be challenged by the petitioner before this Court by way of Special Civil Application No.8125 of 1993 which came to be dismissed by the learned Single Judge of this Court (Coram : B.C.Patel, J., As he then was) vide judgment and order dated 31.8.1994. It appears that thereafter execution proceedings were initiated and an order came to be passed by the respondent No.1 to recover the market rent only for the period beginning from 10.9.1992 to 31.12.1992 and the same came to be challenged by the Executive Engineer, Amreli by way of Regular Civil Appeal No.68 of 2002 and the learned Second Fast Track Judge, Amreli by its judgment and order dated 21.10.2003 allowed the said appeal to recover the market rent from 8.1.1982 instead of 10.9.1992. At this stage, the petitioner has preferred the present Special Civil Application for the aforesaid reliefs.

3. As stated above, in the present Special Civil Application the prayer of the petitioner is to quash

and set aside the order passed by the Deputy Collector, Amreli dated 16.1.1993 and the order dated 12.8.1993 passed by the District Court, Amreli. It is required to be noted that so far as the order dated 16.1.1993 passed by the Deputy Collector, Amreli is concerned, the same was challenged by way of appeal before the District Court, Amreli and the appeal came to be dismissed by order dated 12.8.1993 against which the petitioner preferred Special Civil Application No.8125 of 1993 which came to be dismissed by the learned Single Judge of this Court by order dated 31.8.1994 and the said order has become final and therefore, it is not open for the petitioner now to challenge the aforesaid two orders. By way of interim relief the petitioner has prayed for to stay operation, implementation and execution of the order dated 21.10.2003 passed in Regular Civil Appeal No.68 of 2002, however, the said order has not been challenged by the petitioner and only by way of interim relief it is prayed to stay the said order. Even otherwise, on going through the said order, it appears that it is mere consequential order to the earlier orders which came to be confirmed by this

Court. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly dismissed.

Notice is discharged. However, there shall be no order as to costs.

[M.R.Shah, J.]

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